

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

IN RE:

Case No.: 14-07925 (ESL13)

MYRNA LUZ RIVERA GARCIA

Debtor

**MOTION TO DISMISS**

To the Honorable Court:

Cooperativa de Ahorro y Credito Jesús Obrero<sup>1</sup>, by counsel, respectfully states and prays:

1. Section 1307(c) of the Code provides for the dismissal of a bankruptcy case “on request of a party in interest [...] and after notice and a hearing, [...] for cause, including- (1) unreasonable delay by the debtor that is prejudicial to creditors” and “(6) material default by the debtor with respect to a term of a confirmed plan.” 11 USC §1307(c). *See, In re Roberts*, 279 F.3d 91 (1<sup>st</sup> Cir. 2001). (Failure to make plan payments is cause to dismiss a Chapter 13 case)

2. CJO is a secured creditor in this case, with collateral consisting of a 2012 Toyota Camry 2012<sup>2</sup>.

3. Debtor’s confirmed plan dated March 12, 2015, provides for Debtor to make direct payments to CJO’s secured claim. (Docket #40).

4. Debtors have failed to comply with the provisions of the confirmed plan since, as of this date, they have failed to make **5 post-petition payments** of \$482.72 each for a total of \$2,413.60.

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<sup>1</sup> (Hereinafter, “CJO”)

<sup>2</sup> On March 20, 2015, CJO filed Secured Claim No. 3.

Case No.: 14-07925

Motion to Dismiss

2

5. Therefore, there is cause to dismiss Debtors' current Chapter 13 case pursuant to Section 1307(c) of the Code.

6. Included as attachments to this motion are the following: (a) verified statement in support of this motion to dismiss and (b) certificate of active duty status.

**NOW WHEREFORE**, CJO respectfully requests that this Honorable Court dismiss this case, for cause.

**NOTICE**

Unless a party in interest files an objection hereto within thirty (21) days from the date of this notice, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f), this case may be dismissed without the need of further notice or hearing.

**I HEREBY CERTIFY** that on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the parties appearing in said system, including, but not limited to Debtor's counsel and the Chapter 13 Trustee.

**I FURTHER CERTIFY** that a true and correct copy of this motion was sent by mail to Debtor at her address of record: HC 4 BOX 8751, AGUAS BUENAS, PR 00703, AGUAS BUENAS, PR.

**RESPECTFULLY SUBMITTED**, in San Juan, Puerto Rico, this 23<sup>rd</sup> day of November, 2015.

**DELGADO-MIRANDA LAW OFFICES**

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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

IN RE:

Case No.: 14-07925 (ESL13)

MYRNA LUZ RIVERA GARCIA

Debtor

VERIFIED STATEMENT OF MILITARY STATUS  
AND IN SUPPORT OF MOTION TO DISMISS

The undersigned, an authorized officer of Cooperativa Jesus Obrero1, hereby  
CERTIFIES:

1. Due to my position in CJO, I have acquired knowledge of the loan due from  
Debtor in this case.

2. As of this date, based on search and review of the records kept by CJO in the  
ordinary course of business, the debtors in this case are not in active military duty in the United  
States Armed Forces (Army, Navy, Air Force, Marine Corps, NOAA, Public Health, and Coast  
Guard).

3. I have reviewed CJO's motion to dismiss in this case and the facts therein asserted  
are true and correct, to the best of my knowledge, information, and belief, based on the records  
kept by CJO in the ordinary course of business.

VERIFICATION

I, Jose Arroyo, certify under penalty of perjury that the statements contained herein are true and  
correct, according to the best of my knowledge, information and belief.

In San Juan, Puerto Rico, this 23<sup>rd</sup> day of November, 2015.

  
JOSE ARROYO  
COLLECTIONS SUPERVISOR



# Status Report Pursuant to Servicemembers Civil Relief Act

Last Name: RIVERA GARCIAFirst Name: MYRNAMiddle Name: L.Active Duty Status As Of: Nov-23-2015

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

*Mary M. Snavelly-Dixon*

Mary M. Snavelly-Dixon, Director  
Department of Defense - Manpower Data Center  
4800 Mark Center Drive, Suite 04E25  
Arlington, VA 22350



The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via this URL: [https://kb.defense.gov/PublicQueries/publicQuestions/FaqsAnswers.jsp?Subject=Locating Service Members or Getting a Mailing Address](https://kb.defense.gov/PublicQueries/publicQuestions/FaqsAnswers.jsp?Subject=Locating%20Service%20Members%20or%20Getting%20a%20Mailing%20Address). If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

### More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

### Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.

Certificate ID: T2W084F912C9M70